REMARKS

Applicant thanks the Examiner for the very thorough consideration given the present application.

Claims 1, 3-11, 13, 14, 16-18 and 20 are now present in this application. Claims 1, 4, 6, 8, 10, 13, 14, 17 and 20 are independent.

Claims 2, 12, 15 and 19 have been canceled, and claims 1, 3, 4, 6, 8, 10, 11, 13, 14, 16-18 and 20 have been amended. No new matter is involved.

Reconsideration of this application, as amended, is respectfully requested.

Priority Under 35 U.S.C. § 119

Applicant thanks the Examiner for acknowledging Applicant's claim for foreign priority under 35 U.S.C. §119, and receipt of the certified priority document.

Objection to the Title of the Invention

The title of the invention is objected to as not being clearly indicative of the claimed invention. In order to overcome this objection, Applicant has amended the Title of the Invention in order to better reflect the subject matter claimed.

Reconsideration and withdrawal of this objection are respectfully requested.

Specification Objection

The Examiner has objected to the specification because of several informalities. In order to overcome this objection, Applicant has amended the specification in order to correct the deficiencies pointed out by the Examiner. Reconsideration and withdrawal of this objection are respectfully requested.

Specification Amendments

Applicant has also amended the specification in order to correct minor typographical errors, and to place the specification in better form.

Claim Objections

The Examiner has objected to claims 3, 6, 10-13, 16, 19 and 20 because of several informalities. In order to overcome this objection, Applicant has amended claims 3, 6, 10-13, 16 and 20 in order to correct the deficiencies pointed out by the Examiner. Claim 19 has been cancelled, thereby mooting the objection thereto. Reconsideration and withdrawal of this objection are respectfully requested.

Rejection Under 35 U.S.C. § 102

Claims 1-3, 6, 7, 10-12, 14-16, 18 and 19 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 3,133,168 to Jacobson. This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

During patent examination the PTO bears the initial burden of presenting a *prima facie* case of unpatentability. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). This burden can be satisfied when the PTO presents evidence, by means of some teaching, suggestion or inference either in the applied prior art or generally available knowledge, that would have appeared to have suggested the claimed subject matter to a person of ordinary skill in the art or would have motivated a person of ordinary skill in the art to combine the applied references in the proposed manner to arrive at the claimed invention. See Carella v. Starlight Archery Pro Line Co., 804 F.2d 135, 140, 231 USPQ 644, 647 (Fed. Cir. 1986); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); In re Rinehart, 531 F.2d 1048, 1051-1052, 189 USPQ 143, 147 (CCPA 1976).

If the PTO fails to meet this burden, then the applicant is entitled to the patent. However, when a *prima facie* case is made, the burden shifts to the applicant to come forward with evidence and/or argument supporting patentability. Patentability *vel non* is then determined on the entirety of the record, by a preponderance of evidence and weight of argument, Id.

A prior art reference anticipates the subject matter of a claim when that reference discloses every feature of the claimed invention, either explicitly or inherently. In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997) and Hazani v. Int'l Trade Comm'n, 126 F.3d 1473, 1477, 44 USPQ2d 1358, 1361 (Fed Cir. 1997). While, of course, it is possible that it is inherent in the operation of the prior art device that a particular element operates as theorized by the Examiner, inherence may not be established by probabilities or possibilities. In re Oelrich, 666 F.2d 578, 581, 212 USPQ 323, 326 (CCPA 1981) and In re Rijckaert, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993).

Initially, Applicant notes that this rejection is moot with respect to claims 2, 12, 15 and 19, which have been canceled.

Claims 1, 3, 14 and 16, as amended, positively recite a combination of features including a coupling member that comprises at least one plate spring in the form of a plate so as to exert an elastic force as bent to be elastically coupled to or separated from the locker in opening/closing the door.

Applicant respectfully submits that Jacobson does not disclose this positively recited plate spring feature. Instead of providing a coupling member that comprises at least one plate spring in the form of a plate so as to exert an elastic force as bent to be elastically coupled to or separated from the locker in opening/closing the door, as recited, Jacobson's coupling member comprises two cylindrical roller detents 62 vertically mounted in housings 68 that are biased toward one another by compression springs 66. As explained in col. 3, lines 13-69, Jacobson's rollers are moved apart against the bias of the coil springs by plunger blade 48, which passes through the rollers when the door is being closed. The rollers are then biased toward one another by the compression springs to rest on curved surfaces 51 of the plunger blade to close the door. This is illustrated in Figs, 2-5 of Jacobson, for example.

Not one of the elements of Jacobson's coupling member, e.g., elements 60, 62, 64, 66 or 68, which are all shown in Fig. 3, and some of which are also shown in Figs. 2 and 4-6, is a plate spring, i.e., a spring in the form of a plate.

By way of background to the following arguments, Applicant respectfully notes that there are a number of different types of springs. Compression springs, i.e., the type disclosed by Jacobson, are formed such that when a load is placed on a compression spring, making it shorter or more compact, it pushes back against the load and tries to return to its original length.

Extension springs are attached at both ends and when the spring is extended, e.g., by an object to which it is attached, it tries to return to its original shape. Torsion springs have ends that are attached to other objects and, when those objects move around the center of the spring, the spring tries to move the objects back to their original positions.

Jacobsen's compression springs 66 clearly are classic compression coil springs that are compressed by cylindrical roller detents 62 when the Jacobson lock plunger separates cylindrical roller detents 62.

Applicant's claimed plate spring, on the other hand, is far different than classic compression coil springs. Applicant's plate spring is in the form of a plate instead of in the form of a coiled filament, as are Jacobson's coil springs, i.e., Applicant's claimed plate spring has a relatively large surface area in contrast to the small, filamentary cross-section of Jacobson's coil compression springs. Additionally, Jacobson's plate spring are wound partly around fixed pieces 76a and act as tension springs that are displaced/expanded by locker 72, instead of acting as compression springs, as do Jacobson's coil springs.

In other words, the claimed invention includes a coupling member having at least one plate spring that has a significantly different shape than do Jacobson's compression coil springs and which operates significantly differently that do Jacobson's compression coil springs.

Accordingly, Jacobson clearly does not anticipate the claimed invention, including the plate spring coupling member recited in claims 1, 3, 14 and 16.

With respect to claims 6, 7 and 18, Applicant respectfully submit that Jacobson does not disclose the claimed combination of features, which includes a pair of protrusions formed at centers of the first and second coupling members. Jacobson's cylindrical roller detents do not have this recited protrusion feature. In fact, this positively recited feature of claims 6, 7 and 18 is not even addressed in the Office Action. For this reason alone, the office Action does not make out a *prima facie* case of anticipation of the claimed invention by Jacobson.

Similarly, with respect to claims 10 and 11, Jacobson fails to disclose the claimed combination of features, which includes a protrusion formed at a center of the coupling member. Nor does this rejection disclose what element(s) in Jacobson constitute the recited protrusion. For this reason alone, the office Action does not make out a *prima facie* case of anticipation of the claimed invention by Jacobson.

Reconsideration and withdrawal of this rejection of claims 1-3, 6, 7, 10-12, 14-16, 18 and 19 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 3,133,168 to Jacobson is respectfully requested.

Rejections under 35 U.S.C. § 103

Claims 4, 5, 8, 9 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Jacobson. This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

Because the rejection is based on 35 U.S.C. §103, what is in issue in such a rejection is "the invention as a whole," not just a few features of the claimed invention. Under 35 U.S.C. §103, " [a] patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." The determination under §103 is whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. See In re O'Farrell, 853 F.2d 894, 902, 7 USPQ2d 1673, 1680 (Fed. Cir. 1988). In determining obviousness, the invention must be considered as a whole and the claims must be considered in their entirety. See Medtronic, Inc. v. Cardiac Pacemakers, Inc., 721 F.2d 1563, 1567, 220 USPQ 97, 101 (Fed. Cir. 1983).

In rejecting claims under 35 U.S.C. § 103, it is incumbent on the Examiner to establish a factual basis to support the legal conclusion of obviousness. See, In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one of ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal Inc. v. F-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the Examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. Note, In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1783-

84 (Fed. Cir. 1992). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be suggested or taught by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1970). All words in a claim must be considered in judging the patentability of that claim against the prior art. In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

A showing of a suggestion, teaching, or motivation to combine the prior art references is an "essential evidentiary component of an obviousness holding." C.R. Bard, Inc. v. M3 Sys. Inc., 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232(Fed. Cir. 1998). This showing must be clear and particular, and broad conclusory statements about the teaching of multiple references, standing alone, are not "evidence." See In re Dembiczak, 175 F.3d 994 at 1000, 50 USPQ2d 1614 at 1617 (Fed. Cir. 1999).

Moreover, it is well settled that the Office must provide objective evidence of the basis used in a prior art rejection. A factual inquiry whether to modify a reference must be based on objective evidence of record, not merely conclusory statements of the Examiner. See, In re Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

Furthermore, during patent examination, the PTO bears the initial burden of presenting a *prima facie* case of unpatentability. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); In re Piasecki, 745

F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). If the PTO fails to meet this burden, then the Applicant is entitled to the patent. Only when a *prima facie* case is made, the burden shifts to the applicant to come forward to rebut such a case.

The Office Action admits that Jacobson does not specifically disclose two pairs of fixing protrusions wherein both of the first and second coupling members are hooked to be coupled to the fixing protrusions.

In an attempt to remedy this deficiency, the Office Action states that Jacobson does disclose a pair of fixing protrusions 64, in Fig. 3, to which both of the coupling members are hooked.

Applicant respectfully disagrees with this interpretation of elements 64 of Jacobson, which are explicitly disclosed as "shafts 64" on which cylindrical rollers 62 are mounted (col. 3, lines 13-18). Jacobson also discloses that rollers 62 are biased toward one another by compression springs 66 acting on the respective roller housings 68 (col. 3, lines 18-21). Jacobson's cylindrical rollers 62 do not have hooks or are not hook-shaped and, as such, cannot be hooked to the protrusions 64. Instead, Jacobson's cylindrical rollers 62 are fitted over shafts 64 and completely encompass shafts 64. A hook, on the other hand, is open ended, not closed ended.

Therefore, the premise of this rejection is improper.

The Office Action then speculates, without any objective factual evidence in support thereof, as required by existing case law, including the aforementioned decision in "In re Lee," cited above, that it would be obvious to provide fixing protrusions on the opposite side of the coupling member, i.e., the side not shown, forming two pairs.

Applicant respectfully submits that Jacobson's two shafts 64 extend beyond both ends of cylindrical rollers 64, as shown, for example, in Fig. 2, and do not understand where the second pair of shafts 62 would go. Moreover, Applicants respectfully submit that Jacobson only needs one pair of shafts 62 on which to mount its one pair of cylindrical rollers 64.

Moreover, the Office Action does not clearly indicate why a second set of shafts would be needed other than to speculate, without any objective factual evidence in support of the speculation, that a second set of shafts 62 would result in the locking mechanism operating more smoothly. Applicant is unsure whether this means that a second set of cylindrical rollers would be used also. In this regard, clarification is respectfully requested as to exactly where the proposed second set of shafts would go and why they would be needed or why one of ordinary skill in the art would be motivated to provide this suggested modification of Jacobson, which appears to work well without the proposed modification.

Further, with respect to claim 9, Jacobson does not disclose hooks, let alone guides for the non-existent hooks. In fact, the Office Action never points out where the positively recited guide feature of claim 9 is found in Jacobson. Instead, the Office Action just concludes that item 70 is a guide. However, items 70 in Jacobson are slots in which the alleged fixing protrusions shafts 64 move, not guides provided to the circumference of both ends of the coupling member (62) to keep the coupling member (62) from being separated from the fixing protrusions (64), as recited. In Jacobson, the shafts 64 are fixed to the rollers 62 as shown in Figs. 3-6 and clearly slots 70 are not guides provided to the circumference of both ends of the coupling member (62) to keep the coupling member (62) from being separated from the fixing protrusions (64), as recited. Accordingly, the Office Action fails to make out a *prima facie* case of obviousness of the claimed invention.

Reconsideration and withdrawal of this rejection of claims 4, 5, 8, 9 and 17 under 35 U.S.C. §103(a) as being unpatentable over Jacobson is respectfully requested.

Claims 13 and 20 stand rejected under 35 U.S.C. §103(a) as unpatentable over Jacobson in view of U.S. Patent 6,539,753 to Ito et al. ("Ito"). This rejection is respectfully traversed.

Jacobson fails to disclose that its switch button 82 is directly brought into direct contact with its locker (plunger) when the door is closed, as recited. The Office Action merely discusses the fact that Jacobson has a switch button 82 and clearly admits that Jacobson does not disclose the positively recited direct contact feature of these claims.

In an attempt to remedy this deficiency, the Office Action turns to Ito.

Applicants respectfully submit that the Office Action fails to make out a *prima facie* case of proper motivation to modify Jacobson in view of Ito, as suggested.

Jacobson uses an elongated plunger that moves perpendicular to the face of the door on which it is mounted. The Jacobson plunger never directly contacts a switch-actuating button. Instead, the Jacobson plunger contacts a leaf spring actuating lever, thereby moving the leaf spring actuating lever to contact a switch-actuating button. Clearly, Jacobson contain absolutely no disclosure of actuating the switch button by direct contact with the plunger.

In an attempt to remedy this admitted deficiency, the Office Action turns to Ito, which discloses a significantly different rod locking mechanism than does Jacobson. The differences between these two door-lock mechanisms are structural and functional and are significant.

For example, whereas Jacobson uses a door lock plunger that is simply pushed and pulled directly into or away from its plunger receiving structure to either lock or unlock the door, Ito uses a door handle and claw wherein the claw pushing the claw into its receiving structure neither locks or unlocks the door.

In order to lock Ito's door one has to rotate the rotatable door knob 30 in direction B, as shown in Fig. 3, for example. In order to unlock Ito's door, one has to rotate the rotatable door knob 30 in a direction the reverse of direction B, as shown in Fig. 3.

In other words, the door locking and unlocking mechanisms of Jacobson and Ito operate in fundamentally different manners. In view of this fundamental difference, the Office Action has not demonstrated why one of ordinary skill in the art would be motivated to turn to Ito to modify the significantly different structure of Jacobson that also functions so differently.

More to the point, the Office Action fails to provide objective factual evidence that one of ordinary skill in the art would radically redesign Jacobson's single axis type plunger with the rotating handle and claw arrangement of Ito for any reason, let alone to achieve direct contact of Jacobson's plunger with its on/off switch.

Additionally, whereas Jacobson has one switch 80 with actuating button 82 to turn the dishwasher on or off, Ito has two different switches 35 and 36, one

of which (35) detects that the door is locked and another (36) that detects that the door is unlocked.

In view of this fundamental difference, the Office Action has not demonstrate why one of ordinary skill in the art would be motivated to turn to Ito to modify Jacobson.

More to the point, the Office Action fails to provide objective factual evidence that one of ordinary skill in the art would radically redesign Jacobson's single on/off switch with the two different open/closed switches and solenoid-operated on/off switch arrangement of Ito for any reason, let alone to achieve direct contact of Jacobson's plunger with its on/off switch.

The Office Action speculates that it would be obvious to modify Jacobson in view of Ito "for the benefit of easily detecting when the door is open."

Applicant respectfully disagrees for the aforementioned reasons and because Jacobson already has a mechanism for easily detecting when the door is open that does not require significantly structurally reconfiguring Jacobson, and because using the Ito door open detecting scheme would require adding detectors which would involve additional cost.

Accordingly, the office Action fails to make out a *prima facie* case of obviousness of the claimed invention.

Reconsideration and withdrawal of this rejection of claims 13 and 20 under 35 U.S.C. §103(a) as being unpatentable over Jacobson in view of Ito is respectfully requested.

Additional Cited References

Because the remaining references cited by the Examiner have not been utilized to reject the claims, but have merely been cited to show the state of the art, no comment need be made with respect thereto.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

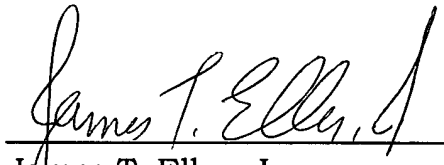
If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Robert J. Webster, Registration No. 46,472, at (703) 205-8076, in the Washington, D.C. area.

Prompt and favorable consideration of this Amendment is respectfully requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: 

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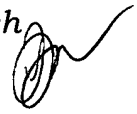

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